

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 26, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHANE PATRICK WILSON,

Defendant.

NO: 2:20-CR-114-RMP-1

PRETRIAL ORDER AND ORDER
GRANTING MOTION TO
CONTINUE

BEFORE THE COURT are Defendant's Motions to Continue Trial, ECF Nos. 23 and 25, which are duplicate filings. Defendant moves for a continuance to allow additional time to investigate this case. The Government does not object to a continuance in this matter. *Id.*

A trial date of September 20, 2021, would deprive defense counsel of adequate time to obtain and review discovery and provide effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7).

Therefore, the Court finds that the ends of justice served by ordering a continuance of proceedings in this matter outweigh the best interests of the public and Defendant's right to a speedy trial, pursuant to 18 U.S.C. §3161(h)(7)(A).

1 Accordingly, **IT IS HEREBY ORDERED:**

2 **1.** Defendant's Motion to Continue Trial, **ECF No. 23**, is **GRANTED**. The
3 Motion to Continue at **ECF No. 25**, is duplicative and **denied as moot**.

4 **2.** The current trial date of September 20, 2021, is **STRICKEN** and
5 **RESET** to **November 29, 2021**, at **8:45 a.m.** commencing with a **final** pretrial
6 conference at **8:30 a.m.** All hearings shall take place in **Spokane**, Washington.

7 **3.** The current pretrial conference date of September 7, 2021, is
8 **STRICKEN** and **RESET** on **November 16, 2021**, at **11:00 a.m.**

9 **4.** Counsel for defense shall notify Defendant of all hearings and ensure
10 Defendant's attendance at court.

11 **5.** Motions to Expedite, if any, shall be filed separately and noted for
12 hearing two (2) days from the date of filing, after informing opposing counsel of
13 such.

14 **6.** Discovery motions, pretrial motions, and motions in limine shall be filed
15 by **October 26, 2021**; responses are due **November 2, 2021**; and replies are due
16 **November 9, 2021**. Counsel shall note their motions for hearing at the pretrial
17 conference on **November 16, 2021**. LCrR 12(c)(2).

18 **7.** Trial briefs, requested voir dire, witness lists, jointly proposed jury
19 instructions, and a table of proposed jury instructions shall be filed and served by
20 **November 19, 2021**, for the Court's consideration.

(a) The jointly proposed jury instructions should address only issues that are unique to this case and shall include instructions regarding the elements of each count, any necessary definitions, and a proposed verdict form.

(b) The parties shall provide the Court electronically with a table of proposed, cited jury instructions. This table shall include:

(i) The instructions on which the parties agree;

(ii) The instructions that are disputed; and

(iii) The basis of any objection.

(iv) The jury instruction table shall be substantially in the following form:

Proposed by	Instruction #	9th Cir. Cite	Objection	Response to objection
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(c) In addition to the jury instruction table, each party shall address any objections they have to instructions proposed by any other party in a memorandum filed by **November 19, 2021**. The parties shall identify the specific portion of any proposed instruction to which they object supported by legal authority that supports the objection. Failure to file an objection to any instruction may be construed as consent to the adoption of an instruction proposed by another party.

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1 **8. *Pretrial Exhibit Stipulation***

2 **(a)** The parties shall prepare and file, by **November 19, 2021**, a pretrial
 3 exhibit stipulation that contains each party's numbered list of all trial exhibits
 4 with the opposing party's objections to each exhibit, including the basis of the
 5 objection and the offering party's brief response. All exhibits to which there
 6 are no objections shall be deemed admitted, subject to any objections at trial
 7 that could not be raised in advance. Failure to comply with this paragraph
 8 could be deemed to constitute a waiver of all objections. Do not submit
 9 blanket or boilerplate objections to the opposing party's exhibits. These will
 10 be disregarded and overruled.

11 **(b)** The pretrial exhibit stipulation shall be substantially in the following
 12 form:

Pretrial Exhibit Stipulation

Plaintiff's/Defendant's Exhibits

Exhibit No.	Description	If Objection, State Grounds	Response to Objection
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16 **(c)** Exhibits shall be pre-marked with the exhibit numbers that will be used
 17 at trial. Plaintiff's trial exhibits are to be numbered 1 through 199, and
 18 Defendant's exhibits are to be numbered 200 and following.

19 **(d)** Objections to exhibits and witnesses shall be heard at the final pretrial
 20 conference.

21 / / /

1 **9. *Trial Procedures***

2 The following procedures shall be utilized at trial:

3 **(a)** The Court utilizes JERS (Jury Evidence Recording System) to allow
4 evidence admitted for a trial to be viewed electronically via touchscreen
5 monitor in the jury deliberation room upon the conclusion of the trial. Please
6 note that the jury will receive a verbatim copy of the JERS exhibit list. Please
7 carefully review and follow the instructions provided.

8 [JERS Instruction Sheet for Attorneys](#)

9 **(b)** The Court will conduct the majority of jury voir dire but allow counsel
10 fifteen minutes to ask additional questions or to do more in depth exploration
11 of issues raised by the Court;

12 **(c)** A total of thirteen jurors will be selected. Plaintiff shall have six
13 peremptory challenges, Defendant shall have ten peremptory challenges, and
14 each party shall have one challenge for the alternate juror. Fed. R. Crim. P.
15 24. The challenges shall be exercised alternately;

16 **(d)** Regular trial hours shall be from 8:45 a.m. to 12:00 noon, and 1:15 to
17 4:30 p.m.;

18 **(e)** The jurors will be provided with notebooks for note-taking and a copy of
19 preliminary instructions;

1 (f) Documents published to the jury by counsel shall be collected at the
2 conclusion of trial each day or following a witness's testimony regarding the
3 published document;

4 (g) A single photograph shall be taken of all witnesses following their
5 testimony for use by the jury to correlate a witness with the testimony he or
6 she provided. The photographs shall be maintained in a three-ring binder by
7 the Court. The photograph will have the witness's name on it and the date of
8 the witness's testimony. The photographs will be provided to the jury to assist
9 them during deliberations. Following deliberations, the photographs will be
10 destroyed by the Court and will not be a part of the record;

11 (h) Examination of witnesses shall be limited to direct, cross, redirect and
12 recross. Fed. R. Evid. 611(a);

13 (i) Counsel are encouraged to limit requests for sidebars by anticipating
14 legal and evidentiary issues so that the issues may be addressed before trial
15 begins each day, during the lunch hour, or after trial hours;

16 (j) During trial, counsel are encouraged to exchange lists of the next day's
17 witnesses and exhibits so that objections or legal issues may be anticipated
18 and resolved outside the normal trial hours;

19 (k) Counsel shall have the next witness to be called to testify available
20 outside the courtroom, to avoid delay; and
21

1 **(l)** An attorney's room for Plaintiff and for Defendant is available. Counsel
2 may inquire with the on-duty Court Security Officer for access to the room.

3 **10.** Any Defendant represented by CJA appointed counsel that will request
4 issuance of subpoenas and payment of costs and fees for trial witnesses will file such
5 requests no later than ten (10) days before trial, excluding weekends and holidays.
6 Defense counsel may request, as needed, that the motion and order be filed under
7 seal. Defense counsel shall prepare a proposed order that includes the following
8 language:

9 **(a)** That the United States Marshal shall serve the subpoenas on the
10 witnesses identified by name, address, and phone number. The subpoenas
11 shall state when the witnesses' appearances are requested;

12 **(b)** That the subpoenaed individual shall contact the United States Marshal
13 in the district in which they are served so that the Marshal may make travel
14 arrangements, for those witnesses requiring such arrangements; and

15 **(c)** That any witness fees and per diem allowances shall be paid by the
16 Government after the witness has testified. Requests for advance payment
17 shall be directed to the United States Marshal in the district in which the
18 witness is served or the United States Marshal in the district in which the
19 witness is present to provide testimony.

1 Defense counsel shall contact the Case Administrator in the District Court
2 Clerk's office, **(509) 458-3400** to obtain information on how to make lodging
3 arrangements for those witnesses requiring lodging.

4 **11.** Counsel is on notice that no CJA money is available to pay per diem
5 expenses for indigent defendants. Should an indigent defendant require
6 transportation to trial and/or housing and meals during the trial, defense counsel
7 shall apply for such travel and costs no later than ten (10) days, excluding weekends
8 and holidays, prior to the date of the trial.

9 **12.** A Waiver of Speedy Trial Rights was signed by Defendant. ECF Nos.
10 24, 26. All time from the trial date of **September 20, 2021**, to the new trial date of
11 **November 29, 2021**, is **EXCLUDED** for speedy trial calculations pursuant to 18
12 U.S.C. § 3161(h)(7).

13 **13.** All time from the filing of Defendants' Motion to Continue on **August**
14 **25, 2021**, to the date of the hearing on **August 26, 2021**, is excluded for speedy trial
15 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).

16 **IT IS SO ORDERED.** The District Court Clerk is directed to file this Order
17 and provide copies to counsel.

18 **DATED** August 26, 2021.

19
20 *s/ Rosanna Malouf Peterson*
21 ROSANNA MALOUF PETERSON
United States District Judge